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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,036	07/30/2003	John J. Giobbi	47079-0107D1	9450
30223	7590	11/29/2005	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			YOO, JASSON H	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,036

Applicant(s)

GIOBBI, JOHN J.

Examiner

Jasson Yoo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raven et al. (US No. 5,429,361) in view of Sizer et al. (US No. 5,923,252).

Regarding claims 1, 27, 37, 39, 41, 65, 66, 68 and 70 Raven et al. disclose a player tracking system for a gaming machine that displays a wagering game (displays of gaming device in Fig. 1 displays wagering game described in col. 3:68-4:57) wherein data carried on a player's portable data unit is used to access monetary information from the player's monetary account stored at a central host computer, the player's account is associated with the personal identifier; monetary information is transmitted from the central host computer to gaming machine and a game is played on the machine using the transmitted information. See, e.g., *fig. 1-3; col. 1:38-2:3, 10:37-11:62*. Furthermore, when the player is not interacting with the machine, the player tracking system enters an "attract mode" wherein promotional messages are displayed. See *col. 5:15-29*. Once the portable data unit is read, the device displays personalized

information. See *fig. 2*. Raven et al. disclose all the features of the listed claims except establishing a wireless link with the portable data unit when the unit is within proximity to the gaming machine, but without inserting the portable data unit in the gaming machine. Regardless, as discussed below, this feature would have been obvious to a gaming artisan in view of Sizer et al.

Sizer et al. disclose an audiovisual marking device capable of detecting a portable data unit carried by a person allowing the device to automatically interact with the person within proximity of the device using personalized information contained on the data unit. See *col. 6:4-17; 16:14-32*. For example, at a trade show or exhibition a person may be given an RF card containing information on the person. See *col. 6:4-17; 16:14-32*. When that person approaches a device, the device detects the portable data unit and delivers information to the person, which is personalized according to the identity information contained on the portable data unit. See *col. 6:4-17; 16:14-32*. The system is directed at attracting customers to interact with point-of-sale devices at retail establishments and tracking the customer's interactions. A casino is merely a specialized type of retail establishment where the point of sale devices are gaming machines. Furthermore, Sizer et al. disclose acquiring a portable data unit from a data unit provider, the portable data unit including a second wireless transceiver; positioning the portable data unit in proximity to the machine, without inserting the portable data unit into any portion of the machine, to establish a wireless transmission link between the first and second wireless transceivers; and transmitting information between the portable data unit and the machine via the wireless transmission link. See *col. 6:4-17;*

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16:14-32. In view of Sizer et al., it would have been obvious to one of ordinary skill in the art of gaming devices to modify the player tracking system disclosed by Raven et al., wherein the machine displays an attract mode to players until it reads information contained on a player's portable data unit and then displays personalized information, to add the feature of establishing a wireless link with the portable data unit when the unit is within proximity to the gaming machine, but without inserting the portable data unit in the gaming machine. As suggested by Sizer et al., the modification would increase players' use of gaming devices by initiating personalized attraction displays when players pass within proximity of the gaming device; and at the same time, collecting statistical information on players' interest to increase the effectiveness of future displays. See col. 8:6-49, 15:66-16:32, 22:10-36

Regarding claims 2, 28 and 42, Sizer et al. disclose the transmitted information is selected from a group consisting of monetary information, user tracking information, user preferences, preferences, and machine data. See col. 6:4-17; 16:14-32.

Regarding claims 5, 30 and 44, Sizer et al. disclose transferring the information between the machine and a central host computer remote from the gaming machine. See fig. 6(204).

Regarding claims 6 and 45, Sizer et al. disclose the wireless transmission link is selected from a group consisting of a short range, radio link and an infrared link. See *col.10:15-20*.

Regarding claims 7 and 46, Sizer et al. disclose the first and second wireless transceivers are respective radio microchips. See *col. 6:4-17; 16:14-32*.

Regarding claims 12 and 51, Sizer et al. disclose the transmitted information includes a personal identifier, and further including transmitting the personal identifier from the gaming machine to a central host computer, the central host computer being remote from and linked to the gaming machine. See *fig. 5, 6; col. 6:4-17; 16:14-32*.

Regarding claims 13, 31 and 52 Sizer et al. disclose transmitting centralized information from the central host computer to the machine. See *fig. 5; col. 6:12-15*.

Regarding claims 22 and 60, Sizer et al. disclose positioning the portable data unit in proximity to the gaming machine includes positioning the portable data unit within a predetermined distance of the gaming machine for at least a predetermined period of time. See *col. 2:29-3:16*.

Regarding claims 25 and 63, Sizer et al. disclose the first transceiver is disposed proximate a front center portion of the machine. *See fig. 2; col. 3:58-67, 9:61-10:21, 10:43-50.*

Regarding claim 32, Sizer et al. disclose the centralized information is determined at least in part by the information transferred from the gaming machine to the central host computer. *See fig. 6.*

Regarding claims 8, 33, and 47, Sizer et al. disclose transmitting information between a user device and a machine using IR and RF transceivers. *See col. 6:4-17.* Bluetooth is a standard data link format using RF transmissions usable for the same purpose as IR and RF. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system disclosed by Sizer et al., wherein data is transmitted between a patron's portable data unit and a machine using an RF data link, to substitute Bluetooth in order to exchange data between the devices using a standard datalink format to reduce engineering costs.

Regarding claims 23 and 61, Sizer et al. state that the detection distance may be to a maximum distance of between 0.5 and 10 meters, according to the operators preferences. *See col. 6:25-31, 11:43-12:10.* Thus, it would have been an obvious design choice for one of ordinary skill in the art at the time of the invention to modify the

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systems disclosed by Sizer et al. to set the predetermined distance to no greater than about three feet to detected people within range of the device.

Regarding claims 24 and 62, Sizer et al. state that the period of time a user must be detected is adjustable according to the operator's preferences. *See fig. 3; col. 3:1-16, 12:18-13:44.* Thus, it would have been an obvious design choice for an artisan at the time of the invention to modify the system disclosed by Sizer et al. to set the predetermined period of time to at least five seconds to direct messages at people who show interest in the device.

Regarding claims 26 and 64, Sizern et al. state that the transceiver may be positioned anywhere offering a clear view of the area to be detected. *See fig. 2; col. 3:58-67, 9:61-10:21, 10:43-50.* Thus, it would have been an obvious design choice for an artisan at the time of the invention to modify the system disclosed by Sizer et al. to dispose the transceiver at a height proximate to a height of a waist of an average standing person to detect people of different heights.

Regarding claims 3, Raven et al. describe a data unit provider being a gaming establishment. *See col. 1:55-57, 10:44-56*

Regarding claims 4, 29, and 43, the system suggested by Raven et al. in view of Sizer et al. describe a portable data unit being a card storing personal identification



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data. Keys, portable telephones, watches, rings, necklaces, and belt buckle are similar personally carried items known in the art as substitutable means for storing personal identification data for access control systems. Thus, it would have been obvious to an artisan at the time of the invention to modify system suggested by Raven et al. in view of Sizer et al., wherein a player carries an card storing personal identification data, to substitute a portable telephone, a watch, a ring, a necklace, or a belt buckle as the portable data unit.

Regarding claims 9, 34, and 48, Raven et al. disclose authenticating the transmitted information. *See col.10:54-54*. Information is authenticated using the player's PIN.

Regarding claims 10, 35, and 49, Raven et al. describe encrypting the transmitted information. *See col. 3:38-62, 5:9-9:14*. Data is encrypted into binary, decimal, hexadecimal, and ASCII code.

Regarding claims 11, 36, and 50, Raven et al. describe correcting errors in the transmitted information. *See col. 5:42-47*. The system detects and corrects errors by performing a Check Sum and retransmitting if the test fails.

Regarding claims 14 and 53, Raven et al. describe centralized information being selected from a group consisting of monetary information, award information, and game customization information. *See col. 3:38-4:61, 10:38-11:46.*

Regarding claims 15, 18, 54, and 56, Raven et al. describe accessing monetary information including an account balance in a player's account at a central host computer associated with the personal identifier. *See col. 10:38-11:62.*

Regarding claim 16, Raven et al. describe adding a number of credits to the gaming machine no greater than the account balance. *See id.*

Regarding claims 17 and 55, Raven et al. describe game customization information adapts the gaming machine to at least one of player preferences and casino preferences. *See col. 3:38-4:61.*

Regarding claims 19 and 57, Raven et al. describe transmitting centralized information from the central host computer to the gaming machine, the transmitted centralized information being determined by the account information. *See col. 10:38-11:62.*

Regarding claims 20 and 58, Raven et al. describe monetary information corresponding to a number of credits, and further including adding the number of credits to the gaming machine. *See id.*

Regarding claims 21 and 59, Raven et al. describe player tracking information is selected from a group consisting of a personal identifier and game play data. *See col. 1:51-2:3; 7:51-8:25.*

Regarding claims 38, 40, 67 and 69, Raven describes adding a number of credits to the gaming machine based on the transmitted monetary information. *See id.*

Regarding claim 71, Sizer et al. describes the wireless transmission link is selected from a group consisting of a radio link and an infrared link. *See Sizer et al., col. 10:15-20.*

Regarding claim 72, Raven et al. describe a system for playing a game includes receiving a wager, randomly selecting a game outcome from a plurality of possible outcomes, and awarding a payoff if the selected game outcome matches predetermined criteria. *See fig. 1.* Raven et al. disclose a slot machine. Slot machines receive wagers, randomly select game outcomes from a plurality of possible outcomes, and award payoffs if the selected game outcome matches predetermined criteria

Regarding claim 73, Raven et al. describe receiving a wager being accomplished using the transmitted information. See *col. 10:38-11:62*.

Regarding claim 74, Sizer et al. describe positioning the portable data unit in proximity to the gaming machine includes standing or sitting in front of the gaming machine. See *col. 2:29-3:16, 6:25-31, 11:43-12:10*.

### ***Response to Arguments***

Applicant's arguments filed March 17, 2005 have been fully considered but they are not persuasive.

Regarding claims 1, 27, 37, 41, 65, 2, 28, and 42, applicant argue Sizer et al. do not teach a gaming machine that displays a wagering game. Sizer et al. disclose an audiovisual marking device capable of detecting a portable data unit carried by a person allowing the device to automatically interact with the person within proximity of the device using personalized information contained on the data unit (*col. 6:4-17; 16:14-32*). The device disclosed by Sizer et al. have many implications for providing services for the detected user such as gaming devices (*col. 5:9-6:3*). Furthermore, Sizer et al. disclose a television monitor and a PC could be activated along with other devices when the user is detected (*col. 4:13-19 and 5:51-57*). Although a gaming machine that displays a wagering game is essentially a PC and a monitor, Sizer et al. do not specifically state the device displays a wagering game. However, the combination of

Raven et al. (US No. 5,429,361) of a wagering game machine that displays a wagering game and tracks individual players and their records related to the game, further teach of a gaming machine that displays a wagering game and transmit information between a portable data unit and the gaming machine via the wireless transmission link.

Regarding claims 8, 33, 47, applicant argue there is not teaching or suggestion in Sizer et al. to modify the system in Sizer et al. to utilize the Bluetooth standard. Sizer et al. disclose the device to be incorporated with "Smart" Cards or RF Cards carried by the person (col. 6, proximate lines 11-12). Sizer also states, "Although Smart Cards and RF Cards are not widely used at present, it is envisaged that in future they will become ubiquitous" (col. 6, proximate lines 15-17). This further teaches and suggest of using a common wireless standard. By using a well known technology of transmitting data such as Bluetooth, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system disclosed by Sizer, wherein data is transmitted between a patron's portable data unit and a machine using RF data link, to substitute Bluetooth in order to exchange data between the devices using a standard datalink format to reduce engineering costs. It would reduce engineering costs by using a well-known technology such as Bluetooth, which is operated on an unlicensed ISM band at 2.4 GHz, rather than operating on a costly licensed band. Furthermore the Bluetooth technology avoids interference from other signals, fully functional even in noisy radio environments, provides a very high transmission rate, and protects all information by advanced error-correction methods, as well as encryption and authentication routines

for the user's privacy; thus, it would be more cost efficient to use the well known Bluetooth technology than developing a new technology that meets those requirements.

Regarding claims 26, 64, applicant argue Sizer et al. do not disclose disposing a transceiver at a height proximate to a height of a waste of an average standing person. Sizer et al. disclose the detection range is a predetermined location (col. 3, proximate line 4). Furthermore Sizer et al. discloses the detection range and the detection means which include the sensor can be varied are arranged according to its implications (col. 6:18-31, 10:26-57, 11:61-62).

Regarding claims 3-4, 9-11, 14-21, 29, 34-36, 38-40, 43, 48-50, 53-59, and 66-74 (of which 39, 66, 68, and 70 are independent), applicant argue it would have not been obvious to modify Raven to include the wireless features of Sizer. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Raven et al. disclose a player tracking system for a gaming machine that displays a wagering game (displays of gaming device in Fig. 1 displays wagering game described in col. 3:68-4:57) wherein

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data carried on a player's portable data unit is used to access monetary information, players account, and tracking information of the player and the game (Fig. 1-3; col. 1:38-2:3, 10:37-11:62). Raven disclose the claim subject matter in claim 3-4, 9-11, 14-21, 29, 34-36, 38-40, 43, 48-50, 53-59, and 66-74 (of which 39, 66, 68, and 70 are independent), except for the wireless features. Sizer et al. disclose a marking device capable of detecting a wireless portable data unit carried by a person allowing the device to automatically interact with the person within proximity of the device using personalized information contained on the data unit (col. 6:4-17; 16:14-32). The system is directed at the attracting customers to interact with point-of-sale devices at retail establishments and tracking the customer's interactions. A casino is merely a specialized type of retail establishment where the point of sale devices are gaming machines. Furthermore, Sizer discloses acquiring a portable data unit from a data unit provider, the portable data unit including a second wireless transceiver; positioning the portable data unit in proximity to the machine, without inserting the portable data unit into any portion of the machine, to establish a wireless transmission link between the first and second wireless transceivers; and transmitting information between the portable data unit and the machine via the wireless transmission link. *See col. 6:4-17; 16:14-32.* In view of Sizer, it would have been obvious to one of ordinary skill in the art of gaming devices to modify the player tracking system disclosed by Raven, wherein the machine displays an attract mode to players until it reads information contained on a player's portable data unit and then displays personalized information, to add the feature of establishing a wireless link with the portable data unit when the unit with

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within proximity to the gaming machine, but without inserting the portable data unit in the gaming machine. As suggested by Sizer, the modification would increase players' use of gaming devices by initiating personalized attraction displays when players pass within proximity of the gaming device; and at the same time, collecting statistical information on players' interest to increase the effectiveness of future displays. *See col. 8:6-49, 15:66-16:32, 22:10-36*

#### **Prior Art, Not Relied On**

The following prior art of record is not relied upon but is considered pertinent to applicant's disclosure:

- U.S. 6,110,041 discloses a player tracking system which automatically adapts a gaming device to a particular player's preferences.
- U.S. 5,926,531 discloses a key combined with a portable data unit storing personal information.
- U.S. 5,113,183 discloses a name tag combined with a portable data unit storing personal information.
- U.S. 4,800,543 discloses a watch combined with a portable data unit storing personal information.
- U.S. 6,031,910 discloses a portable data unit storing personal information including means for protecting and encrypting information stored on the unit



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasson Yoo whose telephone number is (571)272-5563. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571)272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JHY

  
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